

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT COURT OF DELAWARE**

ROBERT SCHMIDT, individually,	)	
AMY SCHMIDT, individually, h/w	)	C.A. NO. 06-207 JJF
	)	
<i>Plaintiffs,</i>	)	
vs.	)	
	)	
FRANK HAMILTON, individually and	)	
TRESSA THOMPSON-THOMAS,	)	
individually,	)	
<i>Defendants.</i>	)	

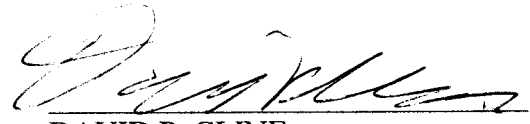
**AFFIDAVIT**

STATE OF DELAWARE	:	
	: ss.	
NEW CASTLE COUNTY	:	

BE IT REMEMBERED, that on this 5th day of May, A.D., 2006 personally came before me, the subscriber, a Notary Public for the State of Delaware, David P. Cline, Esquire, who being by me duly sworn according to law, deposes and says:

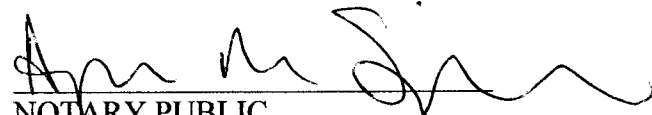
1. That he is the attorney for the above named plaintiffs.
2. To the best of his knowledge, information and belief, on April 07, 2006, a notice was sent to defendant, TRESSA THOMPSON-THOMAS, by registered mail consisting of a copy of the process and complaint served upon the Secretary of State, and a statement that service of the original of such process has been made upon the Secretary of State and that such service is as effectual as if it had been made upon such nonresident personally within this state.
3. Attached as Exhibit "A" is the receipt given by the post office to him on April 07, 2006 the date of mailing of the letter to defendant.

4. Attached as Exhibit "B" is the unclaimed, original registered sealed envelope which was returned to plaintiffs' attorney on May 03, 2006.
5. The letter to defendant, TRESSA THOMPSON-THOMAS, as required by 10 Del. C. § 3112 was contained in the envelope at the time it was mailed.
6. Attached as Exhibit "C" is a copy of the letter that was sent along with the Complaint.

  
DAVID P. CLINE

SWORN to and SUBSCRIBED on this 5<sup>th</sup> day of May 2006.

**ANGELA M. SPINELLA**  
Notary Public - State of Delaware  
My Comm. Expires August 1, 2007

  
NOTARY PUBLIC

Exhibit

A

WILMINGTON MAIN WINDOW

Wilmington, Delaware

198509609

3379300550-0094

04/07/2006

(800)275-8777

04:01:38 PM

Sales Receipt			
Product Description	Sale Qty	Unit Price	Final Price
MARCUS HOOK PA 19061			\$0.87
First-Class			
2.30 oz.			
Return Rcpt (Green Card)			\$1.85
Registered			\$7.90
Insured Value :			\$0.00
Article Value :			\$0.00
Label #:	RB295671392US		

Issue PVI: \$10.62

EASTMAN GA 31023	\$0.87
First-Class	
2.20 oz.	
Return Rcpt (Green Card)	\$1.85
Registered	\$7.90
Insured Value :	\$0.00
Article Value :	\$0.00
Label #:	RB295671401US

Issue PVI: \$10.62

MEDFORD NJ 08055	\$0.87
First-Class	
2.30 oz.	
Return Rcpt (Green Card)	\$1.85
Registered	\$7.90
Insured Value :	\$0.00
Article Value :	\$0.00
Label #:	RB295671389US

Issue PVI: \$10.62

Total: \$31.86

Paid by:  
Personal Check \$31.86

Bill #: 1000603028530

Clerk: 15

— All sales final on stamps and postage. —  
 Refunds for guaranteed services only.  
 Thank you for your business.  
 Customer Copy

Registered No. RB295671401US

Date Stamp

To Be Completed By Post Office	Reg. Fee	\$7.90	
	Handling Charge	\$0.00	Return Receipt \$1.85
	Postage	\$0.87	Restricted Delivery \$0.00
	Received by	<i>[Signature]</i>	
	Customer Must Declare Full Value \$	\$0.00	<input type="checkbox"/> With Postal Insurance <input type="checkbox"/> Without Postal Insurance

Domestic Insurance up to \$25,000 is included in the fee. International Indemnity is limited. (See Reverse).

OFFICIAL USE

To Be Completed By Customer (Please Print) All Entries Must Be in Ballpoint or Typed	FROM	DAVID P Cline, Esquire 1300 N. Market Street Suite 700, Box 1970 Wilmington, DE 19899
	TO	Tress Thompson-Thomas 100 Ridge Road Eastman, GA 31023

PS Form 3806, Receipt for Registered Mail Copy 1 - Customer  
 May 2004 (7530-02-000-9051)  
 For domestic delivery information, visit our website at [www.usps.com](http://www.usps.com)

Schmidt

Exhibit

B

U.S. POST  
PAID  
WILMINGTON  
19850  
APR 07 0  
AMOUNT  
\$1052

000330444-



0000

Case 1:06-cv-00207-JJF

Document 13

Filed 05/05/2006

Page 6 of 14

1971

MAY 03 2006

1st NOTICE  
2nd NOTICE  
RETURNED

**FIRST CLASS**

RETURNED TO  
SENDER  
UNCLAIMED

DAVID P. CLINE, ESQUIRE, P.A.  
1300 N. MARKET STREET  
SUITE 700, BOX 190  
WILMINGTON, DE 19899-1970

TO:

Tress Thompson-Thomas  
100 Ridge Road, Eastman  
Eastman, GA 31023

UNCLAIMED

UNCLAIMED

**RETURN RECEIPT  
REQUESTED**

United States Postal Service  
**REGISTERED MAIL**



4-10  
4-15  
4-21  
1ST NOTICE  
2ND NOTICE  
RETURNED

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"><li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li><li>■ Print your name and address on the reverse so that we can return the card to you.</li><li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>		A. Signature <b>X</b> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to:  Tress Thompson-Thomas 100 Ridge Road. Eastman, GA 31023		B. Received by (Printed Name)	C. Date of Delivery APR 07 2006
		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No	
		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input checked="" type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
2. Article Number (Transfer from service label)		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
LB 295 671 401 US			

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

Exhibit

C



# David P. Cline

[davidcline@mylawman.com](mailto:davidcline@mylawman.com)

*Attorney-at-Law*

Let Mylawman become Yourlawman.™

LICENSED TO PRACTICE IN  
DE MD NJ NY & PA

1300 N MARKET ST, SUITE 700  
WILMINGTON DE 19801

302 529 - 7848

302 LAW-SUIT

April 7, 2006

PHILADELPHIA, PA 19103  
MEDIA, PA 19063  
MT LAUREL NJ 08054  
800-460-4550 (NATIONWIDE)

FAX 302 654-0884

Tress Thompson-Thomas  
100 Ridge Road, Eastman  
Eastman, GA 31023

**VIA REGISTERED MAIL/RETURN RECEIPT REQUESTED & REGULAR MAIL**

Re: Robert Schmidt et al. vs. Frank Hamilton, et al.  
C.A. No.: 06-207 JJF

Dear Ms. Thompson-Thomas:

Please take notice that the enclosed process and complaint have been served upon the Secretary of State as prescribed by Section 3112 of Title 10 of the Delaware Code of 1953. This service upon the Secretary of State is made as if that service had been made upon you personally. Enclosed please find a copy of the Service of Process and the Complaint. Please note that you have 20 days from the date of service of this letter to file an answer to this complaint or a default judgment will be entered against you. A copy of that answer must be served upon me.

Please turn this matter over to the auto insurance company that was in effect on the date of this accident. If you do not have insurance that will cover you for this accident please contact me at the above number. Thank you.

**Very truly yours,**

*/s/ David P. Cline  
(signed electronically)*

**David P. Cline**

Enclosure  
DPC/AS/a

JS 44 (Rev. 11/04)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Robert SchmidtAmy SchmidtDEFENDANTS Frank Hamilton andTressie Thompson-ThomasBethwyn, PAEaston, GA(b) County of Residence of First Listed Plaintiff New Castle

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's Firm Name, Address, and Telephone Number

David P. Cline, Esquire  
1300 North Market Street, Suite 700  
Wilmington, DE 19801 (302) 529-7448

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☒ PTF ☐ DEF
- Citizen of Another State ☐ 2 ☒ 2 Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
- Foreign Nation ☐ 6 ☐ 6

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1332

Brief description of cause:

Personal Injury Auto

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

25 March 2006

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT COURT OF DELAWARE

ROBERT SCHMIDT, individually,  
AMY SCHMIDT, individually, h/w

*Plaintiffs,*  
vs.

FRANK HAMILTON, individually and  
TRESSA THOMPSON-THOMAS,  
individually,  
*Defendants.*

C.A. NO.

207

**COMPLAINT**

Plaintiffs, Robert Schmidt and Amy Schmidt, through their counsel, David P. Cline, Esquire, say by way of Complaint that:

**JURISDICTION**

**I. JURISDICTION BASED ON DIVERSITY OF CITIZENSHIP**

1. Jurisdiction is based on diversity of citizenship and the amount in controversy exceeds Seventy Five Thousand Dollars (\$75,000), exclusive of interest and costs.
2. Jurisdiction is based on diversity of citizenship under 28 U.S.C. § 1332.

**VENUE**

3. Venue lies under 28 U.S.C. Section 1391.

**PARTIES**

4. Plaintiff, Robert Schmidt, is and was at all times pertinent hereto a resident of the state of Delaware, residing at 30 Orchid Drive, Bear, DE 19701.

5. Plaintiff, Amy Schmidt, is and was at all times pertinent hereto a resident of the state of Delaware, residing at 30 Orchid Drive, Bear, DE 19701, and is the wife of plaintiff, Robert Schmidt.

6. Defendant, Frank Hamilton, an individual, upon information and belief, is believed at all times pertinent hereto, a resident of the state of Pennsylvania, residing at 1389 Brookcoft Lane, Boothwyn, PA 19061, Delaware County, Pennsylvania

7. Tressa Thompson-Thomas, an individual, upon information and belief, is believed at all times pertinent hereto, a resident of the state of Georgia, residing at 100 Ridge Road, Eastman, GA 31023.

#### **COUNT I FACTS OF ACCIDENT**

1. On December 21, 2005, at approximately 6:57 p.m., plaintiff, Robert Schmidt, was stopped southbound, on I-95, Vietnam Veterans Highway, in Delaware County, Pennsylvania.

2. At the same time and place, defendant, Frank Hamilton Jr., was operating his vehicle, a silver 2004 GMC Yukon, heading southbound, and operated his vehicle in a negligent, careless and/or reckless manner, causing his vehicle to violently collide into plaintiff, Robert Schmidt's vehicle.

3. At the same time and place, defendant Tressa Thompson-Thomas, was operating her vehicle, a green 1999 Pontiac Grand Prix, heading southbound, and operated her vehicle in a negligent, careless, and/or reckless manner causing her vehicle to violently collide into defendant's, Frank Hamilton vehicle, which was positioned behind the plaintiff's Robert Schmidt, vehicle, causing further injury to the plaintiff, Robert Schmidt.

- a. Did operate her motor vehicle without due regard for the rights, safety and position of the plaintiff, at the time and place aforesaid;
- b. Did fail to give proper and sufficient warning of the approach of the motor vehicle under her control;
- c. Failed to have her vehicle under proper and adequate control at the time;
- d. Did failed to adhere to the rules of the road concerning the legal distance one must keep from another vehicle in order to safely operate a motor vehicle, and in the operation of motor vehicles of public highways;
- e. Did fail to maintain a proper lookout;
- f. Did fail to keep her vehicle under control and violently struck the plaintiff's vehicle;

#### **COUNT II MEDICAL**

8. As a result of the negligence, carelessness, and /or recklessness of the defendants, Frank Hamilton and Tressa Thompson-Thomas, plaintiff, Robert Schmidt suffered serious bodily injuries including to, but not limited to: brain injury, requiring surgery due to a hematoma on right side of skull, comatose state and an inability to resume his normal activities of daily living which may be permanent in nature.
9. As a further result of the injuries mentioned above, plaintiff, Robert Schmidt, has sustained a loss of earnings and/or earnings capacity, which may continue into the indefinite future.
10. As a further result of the negligence of the defendants, Frank Hamilton, and Tressa Thompson-Thomas, the plaintiff, Amy Schmidt, has suffered the loss of society, aid, comfort, companionship, and consortium of her husband, plaintiff, Robert Schmidt..

WHEREFORE, Plaintiff, Robert and Amy Schmidt, demand judgment against defendants, Frank Hamilton, and Tressa Thompson-Thomas for monetary damages, property damages, pain and suffering, lost wages, attorney fees and costs of suit.

**COUNT III CONSORTIUM**

11. As a further result of the negligence of the defendants, Frank Hamilton and Tressa Thompson-Thomas, the plaintiff, Amy Schmidt, has suffered the loss of society, aid, comfort, companionship, and consortium of her husband, plaintiff, Robert Schmidt. WHEREFORE, Plaintiffs, Roberts Schmidt and Amy Schmidt demand judgment against defendants, Frank Hamilton and Tressa Thompson-Thomas, for monetary damages, property damages, pain and suffering, lost wages, attorney fees and costs of suit.

DAVID P. CLINE, P.A.

BY: /s/ David P. Cline  
David P. Cline, Esq. (#2681)  
1300 N. Market St., Ste. 700  
Wilmington, DE 19801  
(302) 529-7848  
Attorney for Plaintiff(s)

Dated: March 30, 2006